

Appl. No. : 09/970,043
Filed : October 2, 2001

REMARKS

In reply to the Office Action dated May 20, 2003, Applicants have amended the application as set forth above. Claims 4, 24, 26, 29-34, 36-40, 61 and 62 are canceled without prejudice solely to advance the prosecution of the instant application. Claims 1 and 12 have been amended. Upon the entry of the amendments, Claims 1-3, 5-9, 12-17, 19-23, 41-48, 50-52, 55, 56, 59 and 60 are pending in this application. No new matter is added by the amendments as discussed below. Applicants respectfully request the entry of the amendments and reconsideration of the application in view of the amendments and the remarks set forth below.

Discussion of Amendments

Claim 1 has been amended to incorporate all of the limitations of Claim 4. Claim 12 has been amended to delete the limitations added in the previous amendment and to restore it to its original form. The recitations of Claims 1 and 4 are supported by the specification, for example, at page 4, the first paragraph. As such, no new matter is added by the Amendments. Applicants respectfully request the entry of the amendments.

Discussion of Claim Objection

Claims 39 and 61 have been objected to for informalities. As above, the objected claims have been canceled. The objection is now moot.

Discussion of Rejection Under 35 U.S.C. § 112

Claims 2, 3, 12, 33, 34, 36-40, 56 and 59-62 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. As discussed below, however, in light of the instant remarks and amendments this rejection should be withdrawn.

With regard to Claims 2 and 3, the Examiner contends that these claims are indefinite for failing to distinctly articulate how their recitations further limit the method of Claim 1, from which these claims depend. The undersigned Applicants' representative had a telephonic interview with the Examiner Traviss McIntosh, III about this rejection on October 15, 2003. As discussed in the interview, Claim 2 further limits the method of Claim 1 in that the recited act of providing alginate is not the only way of providing alginate. There are other ways of providing

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alginate, which involve neither the act of extraction nor the use of marine algae. Also, Claim 3 further limits the method of Claim 1 in that the recited molecular weight range therein is not the only molecular weight range of alginate that can be subject to the method of Claim 1. For example, certain alginate may have a molecular weight outside the recited range. As such, Claims 2 and 3 further limit the method of Claim 1, and therefore are definite as they are presented.

With regard to Claim 12, the Examiner contends that the limitation "hydrolysis comprises adding one or more organic acids including acetic acid" is unclear. However, the limitation has been deleted from Claim 12, which now depends from Claim 1. Claim 1 does not recite a like limitation. As such, Claim 12 as amended is not indefinite.

With regard to Claims 56, 59 and 60, the Examiner contends that the subject matter of method of "treatment" and the language of "controlling" and "enhancing" are inconsistent. The Examiner notes that one can treat conditions and disorders, but one cannot treat "controlling and enhancing". As the undersigned Applicant's representative explained to the Examiner over the telephonic interview on October 15, 2003, the claim is not directed to a method of treating "controlling and enhancing"; rather, the claim is directed to a method of treatment, which is, among other things, controlling cholesterol level or enhancing functions of liver. As such, Claims 56, 59 and 60 are definite as they stand.

Claims 33, 34, 36-40, 61 and 62 have been canceled to expedite the prosecution. Therefore, the rejection of these claims is moot.

Applicants respectfully submit that these amendments overcome the Examiner's rejection for indefiniteness, and respectfully request withdrawal of this rejection under 35 U.S.C. § 112, second paragraph.

Discussion of Rejection Under 35 U.S.C. § 102

The Examiner rejected Claims 1-3, 7-9, 12-17, 19-24, 26, 29-34 and 36-40 under 35 U.S.C. § 102 (e) as being anticipated by Simensen (U.S. Patent No. 6,121,441). However, Applicants respectfully submit that none of the presently pending claims are anticipated by Simensen.

Claim 1 has been amended to incorporate all of the limitations of Claim 4. As the Examiner correctly indicated at page 9, line 1 of the Office Action, Claim 4 is free of the art. In

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fact, Simensen neither discloses nor teaches the limitation of Claim 4, which is copied into Claim 1. As such, Claim 1 is not anticipated by Simensen. Claims 2, 3, 7-9, 12-17 and 19-23 depend from Claim 1 and define additional technical features. Accordingly, these dependent claims are also not anticipated by Simensen. Therefore, Claims 1-3, 7-9, 12-17 and 19-23 overcome the rejection. Thus, Applicants respectfully request withdrawal of the rejection.

Furthermore, Claim 24, 26, 29-34 and 36-40 have been canceled solely to expedite the prosecution. Thus, the rejection of these claims is moot. Applicants respectfully request that the rejection under 35 U.S.C. § 102(e) be withdrawn.

Discussion of Rejection Under 35 U.S.C. § 103

The Examiner rejected Claims 61 and 62 under 35 U.S.C. § 103 (a) as being unpatentable over Eliaz et al. (U.S. Patent No. 6,274,566). However, Claims 61 and 62 have been canceled to expedite the prosecution. Therefore, the rejection is now moot.

Allowable Subject Matter

Applicants gratefully acknowledge the Examiner's dicision to allow Claims 41-48, 50-52 and 55. Also, Applicants gratefully acknowledge the Examiner's note that Claims 4-6, 41-48, 50-52, 55-56 and 59-60 are free of the art.

As noted above, Claims 1-3, 5-9, 12-17, 19-23 have overcome the rejection under 35 U.S.C. § 102(e). Claims 56, 59 and 60 have overcome the rejection under 35 U.S.C. § 112, second paragraph. As such, Applicants respectfully submit that all of the pending claims (Claims 1-3, 5-9, 12-17, 19-23, 41-48, 50-52, 55-56 and 59-60) are allowed or in condition for allowance.

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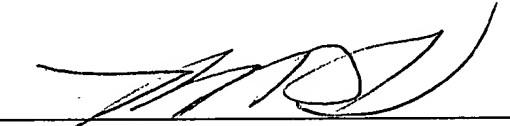
CONCLUSION

In view of Applicant's amendments to the claims and the foregoing remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any remaining concerns, which might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing below.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 10/17/03

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